

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.24869 of 2005

Between:

1. P.Shyam Prasad, S/o.P.Bheema Rao, Vijayawada
and others

... Petitioners

AND

1. Vijayawada Municipal Corporation, represented by its
Commissioner
and another

...Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.24869 of 2005

ORDER:

The petitioners, who are twenty six in number, are the lessees of shops in shopping complex No.35 owned by Vijayawada Municipal Corporation (VMC). The shopping complex known as Mahanti Market is situated in Gopalreddy Road, Governorpet, Vijayawada. Initially, all the petitioners were inducted as lessees in 1992 on very meager rents. As per the relevant rules, they were eligible for renewal of lease on condition of enhancing the rent by 33½% over and above the agreed rent. Such renewal is permissible once in three years. However, it appears that in 1997-1998, VMC mooted a proposal to demolish the existing shopping complex and construct a new complex. With this view, when the lease period expired on 31.3.1997, VMC extended the lease by one year upto 31.3.1998 instead of 31.3.2000. However, the proposal to construct new shopping complex did not materialize. The petitioners, however, continued to pay the rent as was originally agreed to.

VMC issued a notice dated 09.5.2005 requesting the petitioners and other lessees to pay the enhanced rent for the periods from 01.4.1998 to 31.3.2001, 01.4.2001 to 31.3.2004 and 01.4.2004 to 31.3.2007 and demanded the arrears of rent from 01.4.1998 to 30.4.2005. The petitioners gave a representation to VMC on 09.6.2005 stating that as the proposal to construct a new shopping complex fizzled out, the rent for the period of 01.4.1998 to 31.3.2001 should be uniform and cannot be enhanced

with effect from 01.4.1998 as was permitted by VMC. The representation was not disposed of but, curiously, the petitioners continued to pay the rent as was agreed for the period expired by 31.3.1997.

In this writ petition, the petitioners seek a declaration that the action of the first respondent in not disposing of their representation dated 09.6.2005 pursuant to the notice dated 09.5.2005 as illegal and arbitrary. In the miscellaneous application being W.P.M.P.No.31961 of 2005, the petitioners seek a direction to VMC not to dispossess them from their respective shops in Mahanti Market, Plot No.35, Governorpet, Vijayawada.

Whether a lessee of Municipal shop is entitled to pay the enhanced rent at the rate of 33½% for the entire block period of three years or whether Municipal Corporation can reduce the block period of three years are the questions, which have to be decided with reference to the rules. At this stage, it may not be necessary to decide these questions especially when the petitioners seek a limited relief that of consideration of their representation by VMC. Indeed, the learned Counsel for the petitioners does not dispute the liability of the petitioners to pay the enhanced rate of rent as per the relevant rules except for two years i.e., 01.4.1998 to 31.1.1999 and 01.4.1999 to 31.3.2000. In that view of the matter, instead of expressing any opinion on the questions, the writ petition is disposed of in the following manner.

The petitioners' representation dated 09.6.2005 shall be considered by VMC within a period of six weeks from the date of receipt of a copy of this order. This is however subject to the petitioners depositing 60% of the amount demanded for the period (01.4.1999 to 30.4.2005) shown in column No.8 of the notice in Rc.No.A7/5757/97 dated 09.5.2005 within a period of fifteen (15) days from today. This is further subject to condition of the petitioners depositing the rent for the period from 01.5.2005 to 30.11.2005 at the rate mentioned in column No.7 of the notice dated 09.5.2005 within a period of three weeks from today. In the event of the petitioners committing default in payment of the amounts as ordered hereinabove, it shall be open to VMC to take appropriate action to evict them by issuing a notice. The learned Standing Counsel for VMC submits that lease period of twenty five (25) years has already been expired and in that view of the matter, it shall be open to VMC to take appropriate action as per law for re-auctioning the shops in Mahanti Market, Governorpet, Vijayawada.

The writ petition, with the above observations and directions, is disposed of. No costs.

(V.V.S.RAO,J)

November 23, 2005

Note:

Dispatch order copy by 24.11.2005.

(B/o) YS